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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ W.P.(C) 2955/2020

INDIABULLS COMMERCIAL CREDIT LTD. PETITIONER

Through: Mr.Rajiv Nayar, Sr.Adv with Mr.Rishi
Agarwala, Mr.Karan Luthra, Mr.Ankit Banati, Advs.

versus

SIDBI & ANR.

RESPONDENT

Through: Mr.Sanjiv Sagar, Adv for R-1.
None for R-2.

CORAM:

HON'BLE MS.JUSTICE REKHA PALLI

% **ORDER**
09.04.2020

C.M.Nos.10261-63/2020 (for exemptions)

1. Allowed, subject to all just exceptions.

C.M.No.10264/2020 (for exemption from filing counter court fee)

2. Learned senior counsel for the petitioner submits that the requisite court fees will be deposited within three working days of the High Court's reopening.

3. The application stands disposed of.

W.P.(C) 2955/2020 & C.M.Nos.10260/2020 (for stay)

4. The present petition has been taken up for hearing through video conferencing.

5. This petition filed by a Non-Banking Financial Company (NBFC) inter alia seeks a direction to the respondent no.1 to comply with the circular dated 27.03.2020 issued by the respondent no.2/Reserve Bank of India and a consequent direction restraining the respondent no.1 from recovering any amounts during the moratorium imposed by the respondent no.2.

6. The case of the petitioner as articulated by its learned Senior Counsel Mr.Rajiv Nayar, is that the petitioner had entered into a loan agreement with the respondent no.1, whereunder the respondent no.1 had agreed to disburse a loan amount not exceeding Rs.750 crores to the petitioner and pursuant thereto disbursed a sum of Rs.575 crores to it. The petitioner had been repaying the loan amount in instalments as agreed between the parties and has never been a defaulter. The loan instalment of Rs.31,94,79,453/- for the month of March was duly paid on 09.03.2020, whereafter due to the onset of the pandemic of COVID 19 and the subsequent lockdown in the country, the respondent no.2 in order to give temporary relief to the borrowers all across the country, on 27.03.2020 issued a circular giving liberty to all banks to allow moratorium of three months on payment of instalments in respect of all term loans outstanding as on 01.03.2020, subject to the borrower making the said request.

7. Mr.Nayar submits that despite the issuance of the said circular, the respondent no.1 on 03.04.2020 raised the impugned demand towards the instalment payable in April. The petitioner, therefore, made a request to respondent no.1 for grant of moratorium for a period of three months, in response whereeto, the respondent no.1 had while stating that they are awaiting clarifications from the respondent no.2, as to whether, the circular will be applicable to NBFC like the petitioner, directed the petitioner to make the payment towards the instalment due in April, 2020. He, therefore, prays that the respondent no.1 be restrained from making any demands from the petitioner till they obtain any clarification from the respondent no.2.

8. Despite advance service, the respondent no.2 is unrepresented. However, Mr.Sanjiv Sagar, Advocate, who appears on behalf of the respondent no.1 while submitting that the said respondent is still awaiting necessary clarification from the respondent no.2, states that the respondent no.1 has already received the payment from the petitioner as demanded under the impugned communication meaning thereby that according to the respondent no.1 payment towards the instalment due in April, 2020 has already been received by them. He further submits that the respondent no.1 is taking expeditious steps to get the necessary clarification from the respondent no.2 and contends that in any event, even if the demand from the next month is raised in due course, the petitioner will not be treated as a defaulter, till a clarification is obtained

from the respondent no.2 and no such information of the petitioner being an alleged defaulter will be given to any credit rating agency.

9. He, therefore, prays that the present petition be disposed of as infructuous with the aforesaid clarification.

10. Having considered the submissions of the learned counsel for the parties, even though despite service the respondent no.2 is unrepresented, in the light of the respondent no.1's own stand that they are awaiting a clarification from the respondent no.2 as also the position that the payment under the impugned communication is purported to have already been received by the respondent no.1, nothing survives for adjudication in the present petition and the same is accordingly is disposed of as infructuous with the clarification that the respondent no.1 will not raise any further demand on the petitioner towards the due instalments against the petitioner till it obtains a clarification from the respondent no.2. In case the respondent no.1 receives a clarification from the respondent no.2 that the circular dated 27.03.2020 is not applicable to the petitioner and therefore makes a demand towards further instalments, the petitioner would be at liberty to assail the said demand in accordance with law.

11. The order be uploaded on the website forthwith. Copy of the order be also forwarded to the learned counsel through email.

REKHA PALLI, J

APRIL 09, 2020/sr